Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1982

No. 81-2386

PHILIP DELCOSTELLO,

Petitioner,

v.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, *et al.*,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

JOINT OBJECTION TO MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

CARL S. YALLER,
BERNARD W. RUBENSTEIN,
EDELMAN & RUBENSTEIN, P.A.,
Ten Light Street,
Suite 2400,
Baltimore, Maryland 21202,
(301) 752-6160,
Attorneys for Respondent
Local 557, International
Brotherhood of Teamsters.

BERNARD S. GOLDFARB,
KAREN N. MOELLENBERG,
GOLDFARB & REZNICK,
Eighteen Hundred,
55 Public Square,
Cleveland, Ohio 44113,
(216) 781-0383,
Attorneys for Respondent
Anchor Motor
Freight, Inc.

The Daily Record Co., Baltimore, MD 21202

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Local 557, International Brotherhood of Teamsters and Anchor Motor Freight, Inc., Respondents, hereby object to the Motion of Teamsters for a Democratic Union (hereinafter TDU) for Leave to File a Brief as Amicus Curiae in Support of Petitioner. The reasons why consent to file such brief should be withheld are as follows:

1. The arguments presented by TDU in the Amicus Curiae brief are as follows:

   a. A teamster joint committee "award" is not the equivalent of an impartial arbitral decision and should not be governed by a statute of limitation for vacating arbitral decisions.

b. Extension of *Mitchell* to suits by workers against their unions for breach of the duty of fair representation will undermine the "bulwark" against improper union conduct.

2. The issues which TDU seeks to discuss in the proposed brief amicus curiae are questions collateral to the issues actually involved in this proceeding.

In Paragraph 2 of its Motion for Leave to File a Brief as Amicus Curiae in Support of Petitioner, TDU states that it will present an analysis of the differences between the joint committee and arbitral models. Yet, TDU admits that Petitioner DelCostello does not address this issue but proceeds on the assumption that joint committees are legally equivalent to arbitrators. Through this statement, TDU concedes that its brief would place before the Court an argument not raised by the parties below.

The second issue which TDU seeks to raise concerns application of *United Parcel Service, Inc. v. Mitchell*, 451 U.S. 56 (1981) to labor organizations. Although Petitioner DelCostello presented this question to the Court in his Petition for Certiorari, it is not addressed in his Brief to the Court. Thus, the argument made by TDU against application of *Mitchell* to unions represents an issue not otherwise before the Court.

3. For the parties to be put in the position of having to respond to the arguments of TDU on those collateral issues would unnecessarily cause the briefs to be enlarged and would be likely to distract both counsel and the Court from the issues actually involved.

3. Furthermore, the interest of TDU is no more than a remote interest in the issues actually involved in this litigation. The Motion of TDU fails to disclose any relationship between it and the specific collective bargaining agreement at issue herein. Nor does TDU allege any

impact of this case upon litigation to which it is a party. The interest of TDU is purely academic, and without displayed bearing upon this proceeding.

For each and all of the foregoing reasons, the Teamsters for a Democratic Union's Motion for Leave to File a Brief of Amicus Curiae in Support of Petitioner should be denied.

CARL S. YALLER,
BERNARD W. RUBENSTEIN,
EDELMAN & RUBENSTEIN, P.A.,
Ten Light Street,
Suite 2400,
Baltimore, Maryland 21202,
(301) 752-6160,
Attorneys for Respondent
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KAREN N. MOELLENBERG,
GOLDFARB & REZNICK,
Eighteen Hundred,
55 Public Square,
Cleveland, Ohio 44113,
(216) 781-0383,
Attorneys for Respondent
Anchor Motor
Freight, Inc.

Dated: January 21, 1983